

JAYLIN D. KING,
Appellant

v.

PORTLAND AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Docketing, Dismissing, and
: Referring Appeal to Assistant
: Secretary - Indian Affairs
:
: Docket No. IBIA 97-138-A
:
:
: July 9, 1997

On July 7, 1997, the Board of Indian Appeals received a notice of appeal from Jaylin D. King, through counsel, Craig J. Dorsay, Esq., Portland, Oregon. Appellant states that he is appealing the inaction of the Portland Area Director, Bureau of Indian Affairs, under 25 C.F.R. § 2.8, with respect to Appellant's "request for a membership determination as a member of the Samish Indian Tribe." Notice of Appeal at 1. Appellant further states that he is entitled "to a federal determination of his membership status in the Samish Indian Tribe." *Id.* at 3. Although Appellant invokes 25 C.F.R. § 2.8, which concerns the inaction of BIA officials, it appears possible that he is actually attempting to appeal a May 9, 1997, letter from the Acting Area Director concerning the verification of membership for the Samish Tribe.

In either case, this appeal is not within the jurisdiction of the Board of Indian Appeals. 43 C.F.R. § 4.330 (b) provides: "Except as otherwise permitted by the Secretary or the Assistant Secretary - Indian Affairs by special delegation or request, the Board shall not adjudicate: (1) Tribal enrollment disputes." Tribal enrollment issues, insofar as they are within the jurisdiction of the Department of the Interior, are appealable under 25 C.F.R. Part 62, rather than 25 C.F.R. Part 2. See 25 C.F.R. § 2.3(b).

The Board refers this appeal to the Assistant Secretary - Indian Affairs for consideration under 25 C.F.R. Part 62. This referral does not constitute an opinion as to whether this appeal is a proper appeal under Part 62.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed and dismissed, and this matter is referred to the Assistant Secretary - Indian Affairs.

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge